

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE

No. C-12-md-2330 EMC

CARRIER IQ, INC.,  
CONSUMER PRIVACY LITIGATION.

**ORDER DENYING *KENNY, THOMAS,*  
*AND FISCHER* PLAINTIFFS'  
ADMINISTRATIVE MOTION TO FILE  
UNDER SEAL**

**(Docket No. 75)**

The Court has reviewed the administrative motion to file under seal submitted by the *Kenny, Thomas, and Fischer* Plaintiffs (collectively, "Plaintiffs"). Having considered the motion, the supporting Lopez declaration (which was improperly filed under seal), and the Berman declaration which is the subject of the motion, the Court hereby **DENIES** the request for relief. The Berman declaration simply discusses at a broad level the work performed by counsel and thus does not reveal any privileged information. Furthermore, neither the attorney-client privilege nor the work product privilege protects underlying facts. *See, e.g.,* Berman Decl. ¶ 7.

The Court thus orders as follows.

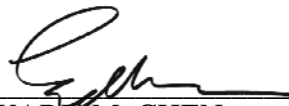
(1) Plaintiffs shall publicly file the supporting Lopez declaration within one day of the date of this order.

(2) Plaintiffs shall have two days to file a notice with the Court that the Berman declaration should be destroyed (or shall be retrieved by Plaintiffs), in which case the declaration shall not be a part of the record. Alternatively, Plaintiffs may within two days publicly file a copy of the Berman declaration. The Court must depart from the timing provided by Civil Local Rule 79-

1 5(e) because of the upcoming hearing date. This timing should not prejudice Plaintiffs as they will  
2 still have ample time to decide whether or not to include the Berman declaration as part of the record  
3 of this case.

4  
5 IT IS SO ORDERED.

6  
7 Dated: July 9, 2012

  
EDWARD M. CHEN  
United States District Judge